



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 15, 1998

Mr. Thomas Shute
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR98-1456

Dear Mr. Shute:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116554.

The City of San Antonio (the "city") received a request for records relating to the pool owned by the Greenridge North Home Owners Association (the "association"). We understand you to argue that the requested records are excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Initially, we note that among the documents you submitted to this office are municipal ordinances, publicly-filed deeds and liens, and minutes of public meetings. All of these documents must be released to the requestor. For compelling reasons of public policy, publicly-filed documents such as municipal ordinances, deeds, and liens cannot be withheld from disclosure even if they arguably fall within the scope of one of the exceptions to disclosure found in the Open Records Act. *See* Open Records Decision No. 551 (1990) at 2-3. Furthermore, the Open Records Act's exceptions do not, as a general rule, apply to information made public by other statutes. Open Records Decision No. 525 (1989). The minutes of a public meeting are made public by statute and cannot be withheld from disclosure pursuant to section 552.103. Open Records Decision No. 221 (1979); Gov't Code § 551.022.

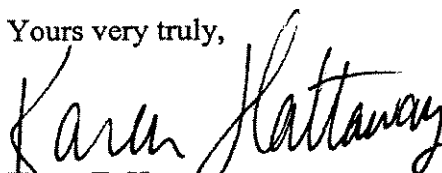
We will consider your section 552.103 claim for the remaining documents. Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or

reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4.

You inform us that the association's petition for a temporary restraining order against the city is pending in Bexar County Court at Law Number 7. You have demonstrated that the remaining documents relate to the pending litigation. We note, however, that many of the remaining documents were obtained from or have previously been provided to representatives of the association. Generally, once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Thus, information that has either been obtained from or provided to the opposing party in the litigation is not excepted from disclosure under section 552.103(a), and it must be disclosed. The city may only withhold under section 552.103(a) information that has not been obtained from or provided to representatives of the association. Finally, we note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 116554

Enclosures: Submitted documents

cc: Mr. Randal Jackson
Attorney at Law
105 South St., Suite 850
San Antonio, Texas 78205
(w/o enclosures)

cc: Mr. Robert J. Birnbaum
Barton & Schneider
700 North St. Mary's Street
San Antonio, Texas 78205
(w/o enclosures)